

OCT 25 2017

IN THE SUPREME COURT OF THE UNITED STATES

No. 16-111

MASTERPIECE CAKESHOP, LTD., ET AL., PETITIONERS

v.

COLORADO CIVIL RIGHTS COMMISSION, ET AL.

ON WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF COLORADO

MOTION OF THE UNITED STATES FOR LEAVE TO
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE
AND FOR DIVIDED ARGUMENT

Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States as amicus curiae, respectfully moves that the United States be granted leave to participate in oral argument in this case and that the United States be allowed ten minutes of argument time. The United States has filed a brief as amicus curiae supporting petitioners. Petitioners have agreed to cede ten minutes of argument time to the United States and therefore consent to this motion.

1. This case concerns a Colorado public accommodations law, Colo. Rev. Stat. § 24-34-601(2)(a), that has been applied to sanction an individual who declined to design and create a custom

wedding cake for a same-sex wedding celebration that contravenes his sincerely held religious beliefs. The question presented is whether that application of Colorado law violates the First Amendment to the U.S. Constitution, as applied to the States under the Fourteenth Amendment. The United States has filed a brief as amicus curiae supporting petitioners, contending that, in the circumstances of this case, the First Amendment's Free Speech Clause bars the application of Colorado's public accommodations law to petitioners.

2. The United States has a substantial interest in this case. As a general matter, the United States has a substantial interest in the preservation of federal constitutional rights of free expression. In addition, the United States has a particular interest in the scope of such rights in the context of the Colorado statute here, which shares certain features with federal public accommodations laws, including Title II of the Civil Rights Act of 1964, 42 U.S.C. 2000a et seq., and Title III of the Americans with Disabilities Act of 1990, 42 U.S.C. 12181 et seq. The United States is thus well positioned to address the reconciliation of content-neutral public accommodations laws with federal constitutional freedoms of speech and expression. Participation by the United States in oral argument would therefore materially assist the Court in its consideration of this case.

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General
Counsel of Record

OCTOBER 2017